

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

DANIEL GEORGE CLARK, M.D.

Case No. 800-2017-033242

**Physician's and Surgeon's
Certificate No. A23338**

Respondent

DECISION


**The attached Stipulated Surrender of License and Order is hereby adopted
as the Decision and Order of the Medical Board of California, Department of
Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on March 1, 2019.

IT IS SO ORDERED February 22, 2019

MEDICAL BOARD OF CALIFORNIA

By:



**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JANNSEN TAN
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7

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2017-033242

14 **DANIEL GEORGE CLARK, M.D.**
15 **5250 Morningside Ave.**
Auburn, CA 95602

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A 23338**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan,
26 Deputy Attorney General.

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1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-033242, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.
8 Respondent hereby gives up his right to contest that cause for discipline exists based on those
9 charges.

10 10. Respondent understands that by signing this stipulation he enables the Board to issue
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
12 process.

13 **RESERVATION**

14 11. The admissions made by Respondent herein are only for the purposes of this
15 proceeding, or any other proceedings in which the Medical Board of California or other
16 professional licensing agency is involved, and shall not be admissible in any other criminal or
17 civil proceeding.

18 12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
19 part, that the Medical Board "shall delegate to its executive director the authority to adopt a
20 stipulation for surrender of a license."

21 13. This Stipulated Surrender of License and Disciplinary Order shall be subject to
22 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
23 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive
24 Director for her consideration in the above-entitled matter and, further, that the Executive
25 Director shall have a reasonable period of time in which to consider and act on this Stipulated
26 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,
27 Respondent fully understands and agrees that he may not withdraw his agreement or seek to
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1 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,
2 considers and acts upon it.

3 14. The parties agree that this Stipulated Surrender of License and Disciplinary Order
4 shall be null and void and not binding upon the parties unless approved and adopted by the
5 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
6 force and effect. Respondent fully understands and agrees that in deciding whether or not to
7 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
8 Director and/or the Board may receive oral and written communications from its staff and/or the
9 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
10 Executive Director, the Board, any member thereof, and/or any other person from future
11 participation in this or any other matter affecting or involving Respondent. In the event that the
12 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this
13 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
14 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
15 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
16 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
17 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
18 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
19 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
20 of any matter or matters related hereto.

21 **ADDITIONAL PROVISIONS**

22 15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
23 herein to be an integrated writing representing the complete, final and exclusive embodiment of
24 the agreements of the parties in the above-entitled matter.

25 16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
26 Order, including copies of the signatures of the parties, may be used in lieu of original documents
27 and signatures and, further, that such copies and signatures shall have the same force and effect as
28 originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 23338, issued to Respondent Daniel George Clark, M.D., is surrendered and accepted by the Medical Board of California.

1. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-033242 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2017-033242 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorneys Renju Jacob, Esq., and Sarah Glatt, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

1 DATED:

NOV 27, 2018

Daniel G. Clark M.D.

DANIEL GEORGE CLARK, M.D.

Respondent

2
3 I have read and fully discussed with Respondent Daniel George Clark, M.D. the terms and
4 conditions and other matters contained in this Stipulated Surrender of License and Order. I
5 approve its form and content.

6 DATED:

November 27, 2018



Attorney for Respondent

7
8
9 ENDORSEMENT

10 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
11 for consideration by the Medical Board of California of the Department of Consumer Affairs.

12 Dated:

1/10/2019

Respectfully submitted,

XAVIER BECERRA

Attorney General of California

STEVEN D. MUNI

Supervising Deputy Attorney General

JANNSEN TAN

Deputy Attorney General

Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-033242

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct 22 20 18
BY hsv ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2017-033242

13 **Daniel George Clark, M.D.**
14 **5250 Morningside Ave.**
Auburn, CA 95602

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 23338,**

17 **Respondent.**

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about July 1, 1969, the Medical Board issued Physician's and Surgeon's
24 Certificate No. A 23338 to Daniel George Clark, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and expired on May 31, 2016, is in delinquent status, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 “(b) Gross negligence.

4 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
8 that negligent diagnosis of the patient shall constitute a single negligent act.

9 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 “(d) Incompetence.

15 “(e) The commission of any act involving dishonesty or corruption which is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 “(f) Any action or conduct which would have warranted the denial of a certificate.

18 “(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the
21 proposed registration program described in Section 2052.5.

22 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder
24 who is the subject of an investigation by the board.”

25 6. Section 725 of the Code states:

26 “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
27 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
28 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of

1 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
2 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
3 pathologist, or audiologist.

4 “(b) Any person who engages in repeated acts of clearly excessive prescribing or
5 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
6 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
7 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
8 imprisonment.

9 “(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
10 administering dangerous drugs or prescription controlled substances shall not be subject to
11 disciplinary action or prosecution under this section.

12 “(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
13 for treating intractable pain in compliance with Section 2241.5.”

14 **FIRST CAUSE FOR DISCIPLINE**
15 **(Gross Negligence-Patient A)**

16 7. Respondent is subject to disciplinary action under sections 2234, subdivision (b) and
17 2234 in that he committed acts of gross negligence and unprofessional conduct in his care and
18 treatment of Patient A¹. The circumstances are as follows:

19 8. On or about March 12, 2012, Respondent saw Patient A as a new referral for back
20 pain. Patient A was a 22-year-old male who had back pain since 2011. Patient A's medication
21 list at the time was Naproxen, Vicodin, Baclofen for back pain. Respondent documented
22 “Patient A had right lumbar pain February, 2011, right thigh tingling with foot numbness
23 August, 2011, with Emergency Department visit and doctor's visit in Castro Valley.” He noted
24 negative x-ray September, 2011. He circled "No" on ETOH use. Respondent's assessment was
25 "DDD with HNP L4-5 with impingement, with radiculitis, without radiculopathy." Respondent
26 documented his plan was "long discussion with diagram & model-re: Dx, pathophysiology,
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28 ¹ All patients will be identified in discovery.

1 treatment option. No surgical intervention. Refer for epidural. Add Neurontin 800, taper to 2
2 TID. DC Vicodin. Add Fentanyl 50 q3d #10."

3 9. Respondent advised Patient A to stop taking Hydrocodone-Acetaminophen 5/325,
4 and prescribed Duragesic (Fentanyl) at 50 mcg/hr, qty 10. Patient A last filled a prescription for
5 Hydrocodone-Acetaminophen 5/325 on February 28, 2012, qty 60.

6 10. On or about March 20, 2012, Patient A filled a prescription from another provider
7 for Hydrocodone-Acetaminophen 10/325, qty 30.

8 11. On or about March 23, 2012, Respondent saw Patient A for a follow up visit.
9 Respondent documented "leg pain significant ↓. Back pain no benefit with Fentanyl, stiff pain
10 with each step." Respondent circled "Yes" on ETOH use. Respondent documented his
11 assessment as "DDD with ↓ radiculitis." Respondent documented his plan was "↑ Fentanyl 50-
12 +100 #10, epidural referral."

13 12. Respondent increased Patient A's Duragesic (Fentanyl) prescription to 100 mcg/hr.,
14 qty 10.

15 13. On or about April 2, 2012, Respondent documented that Patient A had died."

16 14. Respondent committed gross negligence in his care and treatment of Patient A in that
17 he prescribed a long acting opioid, Duragesic patch for a patient at a significant increased dose
18 during the first visit and doubled the dosage two weeks later, while Patient A still possessed at
19 least half of the supply of the previous dosage.

20 **SECOND CAUSE FOR DISCIPLINE**
21 **(Excessive Prescribing-Patient A)**

22 15. Respondent is subject to disciplinary action under sections 2234, and 725 in that he
23 excessively prescribed Duragesic in his care and treatment of Patient A. The circumstances are
24 as follows. Paragraphs 8 through 14, above, are hereby incorporated by reference and realleged
25 as if fully set forth herein.

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1. Revoking or suspending Physician's and Surgeon's Certificate No. A.23338, issued to Daniel George Clark, M.D.;
2. Revoking, suspending or denying approval of Daniel George Clark, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Daniel George Clark, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

October 22, 2018

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